United Nations A/HRC/31/NGO/163

General Assembly

Distr.: General
22 February 2016

English only

Human Rights Council
Thirty-first session
Agenda item 4
Human rights situations that require the Council's attention

Written statement* submitted by Amnesty International, a non-governmental organization in special consultative status

The Secretary-General has received the following written statement which is circulated in accordance with Economic and Social Council resolution 1996/31.

[15 February 2016]

* This written statement is issued, unedited, in the language(s) received from the submitting non-governmental organization(s).

GE.16-02697(E)

Please recycle

Myanmar: UN support is still required to improve the human rights situation

The recent elections in Myanmar should not be seen as a sign that the UN Human Rights Council's (Council/HRC) engagement is no longer needed in Myanmar. When it assumes power at the beginning of April 2016, Myanmar's new government will be confronted with a wide range of human rights challenges, and it is unclear, at this stage, what capacity it will have to address them. The Council's attention to the human rights situation in Myanmar is still necessary to ensure the new government receives the support it needs to fulfil its international human rights obligations and commitments.

The Council should, therefore, adopt a resolution under agenda item 4 on the situation of human rights in the country and extend the mandate of its Special Rapporteur on the situation of human rights in Myanmar. Only when the genuine commitment and ability of the new government to bring about human rights change has been demonstrated, and a national office of the Office of the High Commissioner for Human Rights (OHCHR) has been established in the country, should the mandate of the Special Rapporteur be reconsidered.

Myanmar faces a breadth of major human rights issues and challenges. The new administration will need to take swift action to address discrimination against ethnic and religious minorities – in particular the Rohingya and other Muslims. Furthermore, the growing influence of radical groups promoting hate speech must be eliminated. The government will also have to: take steps to end human rights violations and abuses in areas of armed conflict; tackle the systemic and structural issues that allow for politically motivated arrests and imprisonment; and address the human rights and environmental impacts on individuals and communities resulting from large-scale investment and infrastructure projects.

Additionally, another significant challenge facing the new government will be negotiating its relationship with the military, which even with the change of government still retains significant political and economic power. In Parliament the military holds a legislative veto over constitutional changes, and it has the overall control of key ministries – namely the Ministries of Home Affairs; Border Affairs; and Defence, which are crucial in protecting and upholding human rights. Without control over these keys ministries it is unclear to what extent the new government will be able to deliver human rights reforms.

HUMAN RIGHTS CONCERNS SINCE MARCH 2015

The protracted human rights crisis in Rakhine State has further deteriorated in the past year. Following the decision by President Thein Sein to revoke all Temporary Registration Cards (TRCs), known as "white cards", the majority of the Rohingya have been left without any form of identity document. Amnesty International has found, along with other independent human rights organizations, that many of the Rohingya were prevented from voting in the recent elections. Adding to their political disenfranchisement, almost all Rohingya and many Muslims who applied to run as candidates in the elections were disqualified on discriminatory citizenship grounds.

Since the last HRC resolution on Myanmar,[1] the country has adopted four deeply discriminatory laws aimed at "protecting race and religion". Originally proposed by radical Buddhist groups, the *Religious Conversion Law*, the *Buddhist Women's Special Marriage Law*, the *Population Control Healthcare Law* and the *Monogamy Law* were passed despite containing provisions that violate human rights standards, including by discriminating on religious and gender grounds. Indeed, the past year has seen hardline Buddhist groups grow in power and influence. Myanmar has been marked by an alarming rise in religious intolerance and, in particular, anti-Muslim sentiment. The authorities failed to address incitement to discrimination and violence based on advocacy of national, racial and religious hatred. Instead, human rights defenders and others who spoke out against hardline Buddhist groups faced harassment, threats and in some cases arrests, prosecution and imprisonment.

[1] Situation of human rights in Myanmar, UN Doc. A/HRC/RES/28/23, 2 April 2015.

The intensification of the internal armed conflicts in northern Myanmar between ethnic armed groups and the Myanmar Army led to around 100,000 people being newly displaced in 2015 alone. Violations of international human rights and humanitarian law by the Myanmar Army and ethnic armed groups continue. They include unlawful killings, disappearances, rape and other forms of sexual violence, forced labour such as portering, the recruitment of child soldiers and restriction of humanitarian access.

Despite a prisoner amnesty on 22 January 2016 that saw 102 individuals – including some prisoners of conscience – released, nearly one hundred prisoners of conscience remain behind bars, while hundreds of human rights defenders and peaceful activists are on trial facing imprisonment for the peaceful exercise of their human rights. Moreover, the authorities continue to subject human rights defenders and other activists to multiple forms of monitoring and harassment. Amnesty International welcomes reports that the incoming government will prioritize the release of all prisoners of conscience. However, arbitrary arrests and detentions are likely to continue as long as repressive laws remain on the books. Co-operation with the army-controlled Ministry of Home Affairs, which oversees the police force, the judiciary, prison system and local administration, will be key to ending this abusive cycle.

Amnesty International notes that previous HRC resolutions on Myanmar have made insufficient reference to economic, social and cultural rights. Ongoing concerns about forced evictions as well as the human rights and environmental impacts of corporate projects, in particular, have not received sufficient attention. Investment and large-scale development projects are being carried out without benefitting local populations and communities or taking into account their concerns. The Council should include strong language relating to economic, social and cultural rights in the 2016 resolution and request that the Special Rapporteur continue to monitor developments in this area as part of her mandate.

We remain concerned about persistent impunity for human rights violations committed by the security forces and other government officials. Failure to hold those responsible to account denies victims and their families their rights to justice, truth and reparations. The organization is especially concerned about the recent passage of the *Former Presidents Security Law*, which has the potential to grant former presidents lifetime immunity for human rights violations and crimes under international law.

NEED FOR THE PROMPT OPENING OF AN OHCHR COUNTRY OFFICE

The Office of the UN High Commissioner for Human Rights (OHCHR) has still not yet been able to establish a country office in Myanmar. While several OHCHR staff are able to work in Myanmar, Amnesty International is concerned that they do not have full and sustained access to all parts of the country. The establishment of an OHCHR office, with a full protection and promotion mandate and access to all areas of the country, is crucial to ensure monitoring of the human rights situation in the country.

In the past, the HRC resolution and the mandate of the Special Rapporteur have been crucial to provide independent monitoring of the human rights situation and to formulate relevant recommendations to further secure human rights protection for the people of Myanmar. In light of the challenges facing the new government, Amnesty International believes that the Special Rapporteur's mandate must be extended and the HRC resolution maintained. Before withdrawing its attention, the international community must assess the extent to which the new administration is both able and willing to improve the human rights situation in the country.

RECOMMENDATIONS:

- Amnesty International recommends that the HRC extend the mandate of the UN Special Rapporteur on the situation of human rights in Myanmar and urge the government to co-operate fully with the Special Rapporteur and other thematic Special Procedures.

Further, Amnesty International recommends that the HRC, its members and observer States call on the new Government of Myanmar to:

- Release immediately and unconditionally all prisoners of conscience and drop charges against persons currently not detained, but who are facing imprisonment simply for the peaceful exercise of their human rights;
- Ensure human rights defenders and journalists can carry out their legitimate work without fear of reprisal;

- End all discrimination in law, policy and practice against ethnic and religious minorities, and ensure Rohingya have equal access to citizenship rights;
- Ensure free and unimpeded access to Rakhine State by humanitarian actors, international human rights organizations, journalists and other international observers;
- Ensure that humanitarian aid organizations have full and unfettered access to all displaced persons throughout Myanmar;
- Immediately put an end to all violations of international humanitarian and human rights law, notably rape and other crimes of sexual violence, especially against members of ethnic minority groups;
- Urgently enact and enforce legislation prohibiting forced evictions and strengthen environmental safeguards to ensure that people are protected against infringements of their human rights caused by pollution of water, air or soil by extractive and manufacturing industries;
- Ensure all those who are responsible for human rights violations and abuses – including those with command responsibility – are brought to justice in fair proceedings, without the imposition of the death penalty, and that victims can access truth, justice and full and effective reparation;
- Ratify and effectively implement international human rights treaties, in particular the International Covenant on Civil and Political Rights; the International Covenant on Economic, Social and Cultural Rights, and the UN Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment; and
- Facilitate the establishment of a country office of the OHCHR able to operate throughout Myanmar with a full promotion and protection mandate.